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PATENT APPLICATION

ATTORNEY DOCKET NO. TRMB-T8917

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Carey B. FAN et al.

Confirmation No.: 3917

Application No.: 09/696,446

Examiner: Andrew L. Nalven

Filing Date: 10/24/2000

Group Art Unit: 2434

Title: LOCATION AUTHENTICATION STAMP ATTACHED TO MESSAGE

Mail Stop Petitions
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47 (a)

This is in response to a Decision on Petition under 37 CFR 1.47 (a) mailed on 04/21/2010.

Enclosed is a copy of said Notice and the following documents to complete the filing requirements of the above-identified application.

- ☒ Reply to Decision Dismissing the Request for Recalculation of Patent Term Adjustment
Exhibit 1 Copy of SB131 filing and electronic acknowledgement receipt filed/received 02/11/2010
Exhibit 2 Copy of Notice 1352 OG 146
Exhibit 3 Copy of Dismissal Decision mailed 04/21/2010

☐ A Petition for Extension of Time under 37 CFR 1.136 (a) is authorized..

☐ 1st Month
\$120

☐ 2nd Month
\$460

☐ 3rd Month
\$1050

☐ 4th Month
\$1640

- ☒ Please find enclosed a check in the sum of \$ 00 . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-4157 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-4157 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Respectfully submitted,

Carey B. FAN et al.

By /John P. Wagner, Jr./

John P. Wagner, Jr.

Attorney/Agent for Applicant(s)

Reg No. : 35,398

Date : 05/20/2010

Telephone : 408-377-0500

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:)
)
Fan, et al.)
)
Application No.: 09/696,446)
Patent No.: 7,574,606)
)
Filing Date: 10/24/2000)
Issue Date: 8/11/2009)
For: Location Authentication)
Stamp Attached to Messages)
_____)

Commissioner for Patents
P.O. Box 1450 - document code PET.OP
Alexandria, VA 22313-1450

Reply to Decision Dismissing the Request for Recalculation of Patent Term Adjustment

On 4/21/2010 the USPTO issued a Dismissal Decision which dismissed a request for recalculation of patent term adjustment in view of Wyeth in the instant patent (Pat. No. 7,574,606). Patentees believe that this request was improperly deemed ineligible, and therefore dismissed.

The Dismissal Decision of 4/21/2010 appears to have been in response to the form SB 131 "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH" which was filed by the Patentees on 2/11/2010. Copies of the electronic filing of this SB131 and its filing receipt are attached hereto as an exhibit.

The instant patent issued on 8/11/2009 and the form SB 131 was required to be filed within 180 days of this issue date in order to be considered timely filed. Per Patentees' calculations, the 180 day point following issuance fell on 2/06/2010 (a Saturday).

According to Notice 1352 OG 146 (dated 17 February 2010), the USPTO was closed on Monday February 8, 2010, through Thursday, February 11, 2010 and these dates were

considered to be a "... Federal holiday within the District of Columbia." A copy of Notice 1352 OG 146 is attached hereto as an exhibit. Due to this "Federal holiday" designation, Patentees submit that the filing of the form SB131 for the instant patent would have been timely even if filed on 2/12/2010 (the day following this "Federal Holiday"). As the form SB1321 was electronically filed on 2/11/2010, Patentees submit that it was timely filed and that the dismissal for ineligibility was improper.

Patentees believe that the instant patent is eligible for approximately 304 additional days of PTA under the Wyeth rules. In light of the seemingly improper nature of the dismissal, Patentees request that the SB131 filed for the instant application be reconsidered as having been timely filed. Per the Dismissal Decision of 4/21/2010, no fee is required with this reply as Patentees believe the original SB131 was improperly dismissed for ineligibility.

Respectfully submitted,

WAGNER BLECHER LLP

Dated: May 20, 2010

/John P. Wagner, Jr./

John P. Wagner, Jr.
Registration No.: 35,398

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Exhibits

1. Copy of 2/11/2010 SB131 filing and electronic filing receipt.
2. Copy of Notice 1352 OG 146
3. Copy of Dismissal Decision of 4/21/2010

Electronic Acknowledgement Receipt

EFS ID:	6996712
Application Number:	09696446
International Application Number:	
Confirmation Number:	3917
Title of Invention:	LOCATION AUTHENTICATION STAMP ATTACHED TO MESSAGES
First Named Inventor/Applicant Name:	Carey B. Fan
Customer Number:	70409
Filer:	John Paul Wagner Jr./Emilie Benschoter
Filer Authorized By:	John Paul Wagner Jr.
Attorney Docket Number:	TRMB-2106
Receipt Date:	11-FEB-2010
Filing Date:	24-OCT-2000
Time Stamp:	23:14:59
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	no
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File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Request for PTA recalculation in view of Wyeth	TRMB-T8917-PTOSB131.pdf	34303 e16e19404d09a76cd5d8f4a798e4e8625d5c75a8	no	1

Warnings:

Information:

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF WYETH*Attorney Docket
Number: TRMB-T8917

Patent Number: 7,574,606

Filing Date
(or 37(b) or (f) Date): 10/24/2000

Issue Date: Aug 11, 2009

First Named
Inventor: Carey B. FAN

Title: LOCATION AUTHENTICATION STAMP ATTACHED TO MESSAGE

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-WYETH INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

*Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature: /John P. Wagner, Jr./

Date: 02/11/2010

Name
(Print/Typed): John P. Wagner, Jr./

Registration Number: 35,397

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 1.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below.

Total of 1 forms are submitted

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. The collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Closing of the United States Patent and Trademark Office from Monday, February 8, 2010, through Thursday, February 11, 2010
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Closing of the
United States Patent and Trademark Office from
Monday, February 8, 2010, through Thursday, February 11, 2010

In view of the official closing of the Federal Government offices in the Washington, D.C. metropolitan area, including the United States Patent and Trademark Office (USPTO), from Monday, February 8, 2010, through Thursday, February 11, 2010, the USPTO will consider each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 C.F.R. §§ 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any action or fee due from Monday, February 8, 2010, through Thursday, February 11, 2010 (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered as timely for the purposes of, e.g., 15 U.S.C. §§ 1051(b), 1058, 1059, 1062(b), 1063, 1064, 1126(d), or 35 U.S.C. §§ 119, 120, 133 and 151, if the action is taken, or the fee is paid, on the next succeeding business day on which the USPTO is open, that is, Friday, February 12, 2010. 37 C.F.R. §§ 1.7(a) and 2.196.

37 C.F.R. §§ 1.6(a)(2), 2.195(a)(4) and 2.198 provide that correspondence deposited in the Express Mail Service of the United States Postal Service (USPS) in accordance with 37 C.F.R. §§ 1.10 or 2.198 will be considered filed on the date of deposit (as shown by the "date-in" on the Express Mail mailing label) with the USPS. Thus, any paper or fee properly deposited in the Express Mail Service of the USPS from Monday, February 8, 2010, through Thursday, February 11, 2010, in accordance with 37 C.F.R. §§ 1.10 or 2.198 will be considered filed on its respective date of deposit in the Express Mail Service of the USPS (as shown by a "date-in" of February 8, 2010, February 9, 2010, February 10, 2010, or February 11, 2010, on the Express Mail mailing label).

37 C.F.R. § 1.6(a)(4) and 37 C.F.R. § 2.195(a)(2) provide that patent and trademark related correspondence transmitted electronically to the USPTO will be considered filed in the USPTO on the date the USPTO received the electronic transmission. Thus, any patent and/or trademark-related correspondence transmitted electronically to the USPTO will be considered filed in the USPTO on the date the USPTO received the complete electronic transmission, even if the USPTO is closed on that day. Correspondence successfully received by the USPTO through the patent Electronic Filing System (EFS-Web) will receive the date as indicated on the Acknowledgement Receipt. Trademark Electronic Application System (TEAS) filings will receive the date indicated in the e-mail confirmation sent at the time of a successful filing.

February 17, 2010

DAVID J. KAPPAS
Under Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT #3

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TRIMBLE NAVIGATION LIMITED C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 04/21/2010

RECEIVED

APR 23 2010

WB

Applicant : Carey B. Fan
Patent Number : 7574006
Issue Date : 08/11/2009
Application No : 09/696,446
Filed : 10/24/2000

: DECISION ON REQUEST FOR
: RECALCULATION OF PATENT
: TERM ADJUSTMENT IN VIEW
: OF WYETH
:
:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET-OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-372-7703.